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GENERAL STUDIES (TEST CODE : 740)

Name of Candidate	PRATHAM KAUSHIK		
Medium Hindi/Eng.	English	Registration Number	17524
Center	RN	Date	08/04/16

INDEX TABLE

Q. No.	Maximum Marks	Marks Obtained
1	12.5	
2	12.5	
3	12.5	
4	12.5	
5	12.5	
6	12.5	
7	12.5	
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9	12.5	
10	12.5	
11	12.5	
12	12.5	
13	12.5	
14	12.5	
15	12.5	
16	12.5	
17	12.5	
18	12.5	
19	12.5	
20	12.5	

Total Marks Obtained:

Remarks:

INSTRUCTIONS

1. Do furnish the appropriate details in the answer sheet (viz. Name, Registration Number and Test Code).
उत्तर पुस्तिका में सूचनाएं भरना आवश्यक है (नाम, प्रश्न-पत्र कोड, विद्यार्थी क्रमांक आदि)।
2. There are TWENTY questions printed in HINDI and ENGLISH. इसमें बीस प्रश्न हैं तथा हिन्दी और अंग्रेजी दोनों में छपे हैं।
3. All questions are compulsory. सभी प्रश्न अनिवार्य हैं।
4. The number of marks carried by a question/part is indicated against it.
प्रत्येक प्रश्न/भाग के अंक उसके सामने दिए गए हैं।
5. Answers must be written in the medium authorized in the Admission Certificate, which must be stated clearly on the cover of this Question-Cum-Answer (QCA) Booklet in the space provided. No marks will be given for answers written in medium other than the authorized one.
प्रश्नों के उत्तर उसी माध्यम में लिखे जाने चाहिए जिसका उल्लेख आपके प्रवेश पत्र में किया गया है और उस माध्यम का स्पष्ट उल्लेख प्रश्न-सह-उत्तर (क्यूसीए) पुस्तिका के मुख्य पृष्ठ पर अंकित निर्दिष्ट स्थान पर किया जाना चाहिए। उल्लिखित माध्यम के अतिरिक्त अन्य किसी माध्यम में लिए गए उत्तर पर कोई अंक नहीं मिलेंगे।
6. Word limit in questions, if specified, should be adhered to. प्रश्नों में शब्द सीमा, जहाँ विनिर्दिष्ट है, का अनुसरण किया जाना चाहिए।
7. Any page or portion of the page left blank in the Question-Cum-Answer Booklet must be clearly struck off.
उत्तर पुस्तिका में खाली छोड़ा हुआ पृष्ठ या उसके अंश को स्पष्ट रूप से काटा जाना चाहिए।

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EVALUATION INDICATORS

1. Alignment Competence
2. Context Competence
3. Content Competence
4. Language Competence
5. Introduction Competence
6. Structure - Presentation Competence
7. Conclusion Competence

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

5.

6.

All the Best

All the questions are compulsory and carry 12.5 marks each.

1. Legislative Councils in states are expensive and otherwise superfluous legislative appendages. Examine the utility of legislative councils in this context. Also, comment on the procedural aspect of setting up and abolishing them.

राज्य विधान परिषदें महंगी और अनावश्यक विधायी उपांग हैं। इस संदर्भ में विधान परिषदों की उपयोगिता की जांच करें। इसके अतिरिक्त इनके सृजन व उत्सादन के प्रक्रियात्मक पहलुओं पर टिप्पणी करें।

Legislative councils are the analogous
of the Upper House in state legislatures.

At present, 7 Indian states have
legislative council and few others like
Rajasthan are under process to set it
up.

Utility of legislative councils

- 1) Although legislative councils do not
enjoy much power, but they are
a check on arbitrariness of decisions
by legislative assemblies by moulding
public perception and encouraging
debate & discussion.

- 2) Although the exercise of election to councils might seem superfluous but generally the structure of legislative councils represent the educated and aware individuals of that state.
- 3) Merely because an institution is expensive to sustain does not provide effective argument to abolish it.
- 4) Legislative councils can be made more important by providing it with certain powers to delay the passage of bills, so that sufficient time is there to debate on it.
- 5) The diminishing utility of legislative councils should be arrested, and powers regarding local Govt (both Rural & Urban) be provided to them to increase their efficacy.

Setting up & abolishing legislative councils

- legislative council - if demanded by a state can be set up by the Parliament by passing a resolution to this effect.
- If Parliament deems fit to abolish the legislative council of a state, it can abolish it.

2. Ordinances have turned what were supposed to be exceptional powers into a procedural device to outmanoeuvre the Parliament. Discuss. Also, examine whether the existing safeguards are sufficient to check the misuse of ordinances.

अध्यादेशों की कल्पना विशिष्ट शक्तियों के रूप में की गई थी, लेकिन ये संसद कि उपेक्षा का प्रक्रियात्मक साधन बन गए हैं। चर्चा करें। साथ ही, इस तथ्य का परिक्षण करें की क्या वर्तमान सुरक्षात्मक उपाय अध्यादेशों के दुरुपयोग को रोकने हेतु पर्याप्त हैं?

The ordinance making power of the President of India is an exceptional power to address such issues which need urgent law and the legislature is not in session.

But ordinances have turned out to be a means to bypass the parliament by the executive.

Art 123 of the constitution confers the ordinance making power on the President but it has been misused by the Govt of the day to enact a law which it thinks will be hard to pass in the Parliament.

This clearly defeats the separation of powers between Executive and the legislature, which is part of basic structure of constitution.

The existing safeguards are.

- The ordinance once promulgated will have to be passed by the parliament as soon as the session begins within 6 weeks of its sitting. This gives an ordinance maximum 6 months and 6 weeks to be in force as law.
- Supreme Court in DC Wadhwa vs state of Bihar held that the ordinance cannot be re-promulgated without amending its basic text.

Although this has acted as a check on frequent re-promulgation of ordinances when the parliament is not in session, but still the misuse

of ordinance making power has not completely stopped.

In order to limit this power of the ~~par~~ executive, the judiciary needs to be active as it is not bound by 'sittings' and sessions.

Judicial review of an ordinance should be considered as a necessity for it to be in force.

Another safeguard can be added by including the leader of Opposition's opinion while promulgating the ordinance.

3. While the British Parliament is a sovereign legislature, the Parliaments of India and USA are non-sovereign legislatures. Explain. Also, compare the organisation and powers of the Indian Lok Sabha with the British House of Commons.

जहाँ ब्रिटिश संसद एक संप्रभु विधायिका है, वहीं भारत और अमरीका की संसदें गैर-संप्रभु विधायिकाएं हैं। स्पष्ट करें। इसके अतिरिक्त, हाउस ऑफ कॉमन्स और भारतीय लोक सभा के गठन की प्रक्रिया और शक्तियों की तुलना करें।

A sovereign legislature means that the Parliament is supreme, and bills passed by the Parliament cannot be blocked.

- British Parliament is supreme in absence of a written constitution. The bills passed by British Parliament cannot be questioned by the Judiciary and the Monarch has to sign it.

- The American Parliament, in this regard is not sovereign, as its bills can be vetoed by the American President and can be called for review by the judiciary.

- In India, the constitution is supreme, not the parliament. The power of Judicial review / scrutiny and restrictions of amending power are effective checks on Indian Parliament.

Organisation of British & Indian lower houses.

The organisation of Lok Sabha and House of Commons is similar with few exceptions

- The British speaker is elected unopposed in his next term, since he resigns from his party on assuming office.
- There are no nominated members of British House of Commons, like the nominated members of Anglo Indian Community in Lok Sabha.

→ Both legislatures follow first past the post system in elections and are organised on the basis of representation from constituencies.

Powers

- British House of Commons is far more powerful in its domain than Indian Lok Sabha, as it also acts as a constituent Assembly, and only simple majority is required to pass a law or to amend / add a law to the unwritten constitution.
- Lok Sabha sits as legislative authority and constituent authority and has effective checks on its powers.

4. Is it possible and practicable to reconcile divergent laws and customs of different communities and formulate a uniform or common code that would be acceptable to all communities? Discuss in the context of debates surrounding the formulation of a uniform civil code in India.

क्या अलग-अलग कानूनों और विभिन्न समुदायों की प्रथाओं में सामंजस्य स्थापित करने के साथ-साथ ऐसे समान संहिता की रचना कर पाना संभव और व्यवहार्य है जो सभी समुदायों को स्वीकार्य हो? भारत में समान नागरिक संहिता के निर्माण से संबंधित विमर्श के संदर्भ में चर्चा करें।

The Indian constitution, under Art 44 of Directive Principles of state policy says that state should endeavour to formulate a uniform civil code.

Although, many times, the issue of uniform civil code is raised but due to ineffective debate and awareness, it has not been formulated till now.

Issues regarding a common code

- The minorities have a fear that their customs & practices will be done away with.
- The laws regarding communities are at so divergent ends that it becomes difficult to arrive at common platform.

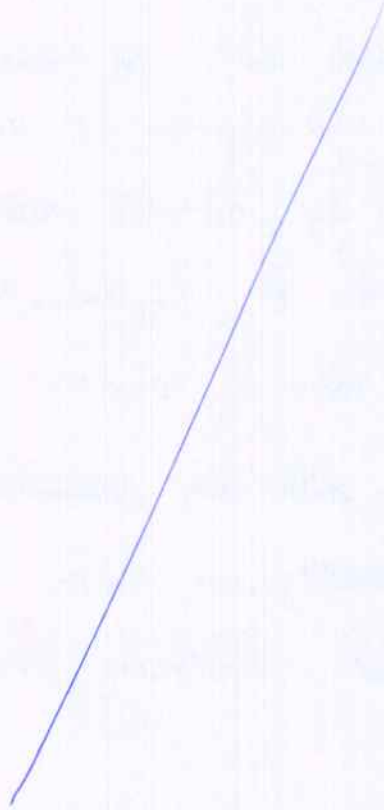
Way forward.

- The experience of enacting Hindu Marriage Act, 1956 by J.L. Nehru and B.R. Ambedkar should be taken as example for effective consensus building among different groups.
- Enacting Uniform Civil Code in one instance will cause disruption & dissent in public, therefore by suitable awareness and education, it can be implemented section by section over a period of time.
- Role of leaders of different communities is crucial. Govt should sit with the religious leaders and address their concerns.
- Judiciary can also play a part by striking off the provisions which exist under the garb of personal laws but promote inequality.

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5. Several constitutional experts have found the process of appointment and removal of governor to be against the very grain of democratic traditions and constitutional propriety. Do you think that this process warrants a fresh look in context of recent controversies surrounding the post?

कई संवैधानिक विशेषज्ञों ने राज्यपाल की नियुक्ति व इसे हटाने की प्रक्रिया को लोकतांत्रिक परंपराओं की मूलभावना और संवैधानिक मर्यादा के विरुद्ध पाया है। इस पद से जुड़े हाल के विवादों को देखते हुए क्या आप इस प्रक्रिया की समीक्षा की आवश्यकता महसूस करते हैं?

The post of Governor, in the words of BR Ambedkar, is as sacrosanct as the President. Despite the statement by Supreme Court, that Governor is not an employee or agent of the Centre Govt, Governors are used as a tool to check the State Govts by the Union Govt.

In this regard, strengthening the position of governor demands consideration.

→ The present provision of Governor holding post till the pleasure of President should be done away with. The pleasure doctrine should be removed.

and a fixed term should be there for Governor.

→ Appointing of a random person as Governor violated the spirit of democracy. As Sarkaria Commission has recommended that Governor should be a person with following attributes.

- No interest in local state politics
- should not belong to the state of which he is appointed Governor
- Should be an eminent personality in any domain.
- should not be actively participating in politics just before appointment.

→ The removal of the Governor by a new Govt at centre is a disturbing process. Although SC has

said that the removal of Governor cannot be done on arbitrary grounds, still a process of impeachment of Governor on the lines of President needs to be devised, as suggested by the Lunchei Commission.

6. Repeated violations of the Model Code of Conduct (MCC) have raised questions on its effectiveness. In this light, discuss the idea of making MCC a part of Representation of Peoples Act, 1951.
आदर्श आचार संहिता (एम.सी.सी.) के बार-बार होने वाले उल्लंघन ने इसकी प्रभावशीलता पर प्रश्न खड़े किये हैं। इस आलोक में, आदर्श आचार संहिता को लोक प्रतिनिधित्व अधिनियम, 1951 का हिस्सा बनाने के विचार पर चर्चा करें।

The Model Code of Conduct is code devised and arrived to bring greater efficiency in holding of free and fair elections. At present, MCC is just guidelines issued by Election Commission and does not have statutory backing.

Violations of MCC by candidates include -

- corrupt practices to garner more votes
- Existing govt misusing its power to influence the outcome.

The repeated violation demand the inclusion of MCC in RPA, 1951.

Arguments in favour include -

- The statutory backing will make easy to prosecute the violators.
- The violation of MCC could be challenged in Courts under 'Election Petition'.
- At present, only ECI can take a call on violation of MCC that makes grievance redressal a difficult process.
- Since ECI does not have legal expertise, determination of punishment is arbitrary.
- Once a part of RPA, the Model Code of Conduct will have the power of law, when in force, thus making the executive responsible for checking its violation.

Although few things suggest that MCC outside of RPA is better idea -

- It has been generated by consensus of political parties, so rather than making it a law, the ECI can discuss it with political parties to expand its scope.
- Making it a part of RPA might increase the already high number of Election disputes before the courts.

7. The government cannot condition receipt of public benefits on waiver of fundamental rights. Discuss this statement in context of the recent issues raised in the Aadhaar petitions.

सरकार, जनता के समक्ष कल्याणकारी लाभों को प्राप्त करने के लिए, मौलिक अधिकारों के परित्याग की शर्त नहीं रख सकती। हाल ही में आधार कार्ड से सम्बंधित याचिका में उठाए गए मुद्दों के संदर्भ में इस कथन पर चर्चा करें।

India is a welfare state. The benefits provided by the govt to the public are not in lieu of the rights, but are a duty of the state.

In the recent Aadhaar petitions, few concerns have been raised

- To be a part of public benefit systems like subsidies or PDS, Aadhaar will be mandatory, thus leaving no choice for the beneficiaries.
- The data for Aadhaar enrolment will be at the disposal of the authorities which is a violation of fundamental right of privacy under Art 21 Right to life.

- Earlier, the SC held that Aadhaar cannot be made mandatory but the Govt has bypassed it by enacting the Aadhaar bill.

These concerns can be addressed by adequate safeguards which do not require giving up the fundamental rights, such as

- The Aadhaar data can be encrypted and de-encryption can be allowed only after consent of the individual.
- The authorities found violating the guidelines should have a punishment provision.
- The biometric data should be not be shared with the authorities implementing the schemes, rather held directly by the Govt.

fundamental rights are granted by the constitution without any obligation, even without any fundamental duty. Thus in such a scenario, the giving up of rights for benefits violate the spirit of the constitution.

8. Though the institutions protecting human rights and rights of the vulnerable sections are meant to act as watchdogs, they are treated as subordinate departments with scant regard for their autonomy or statutory character. Discuss the issues which these institutions are facing related to appointment, structure and functioning.

यद्यपि मानवाधिकारों और समाज के कमजोर वर्गों के अधिकारों की रक्षा करने वाले संस्थानों से इन अधिकारों के प्रहरी के रूप में कार्य करने की अपेक्षा की जाती है, लेकिन इन विभागों की स्वायत्तता या वैधानिक चरित्र के प्रति महज औपचारिक सम्मान प्रदर्शित करते हुए अधीनस्थ विभागों जैसा व्यवहार किया जाता है। इन संस्थाओं द्वारा नियुक्ति, गठन और कामकाज से संबंधित सामना की जा रही चुनौतियों पर चर्चा करें।

The onus of protecting the human rights and rights of vulnerable people lies on the National Human Rights Commission. NHRC works in tandem with State HRCs, NGOs and local pressure groups.

Appointment Issues.

- Though NHRC chairperson is retired ~~senior~~ judge CJI and members are retired judges of SC, but the lower functionary does not have people with high prestige and respect in public.

- People working at state level with SHRC & NHRC are arbitrarily appointed.

structure & functioning, issues

- NHRC is only a 5 member body without effective manpower to check violation of human rights.

- Absence of judicial power to prosecute criminally (though NHRC has powers of civil court)

- In gross Human right violations, the NHRC cannot do anything but advise the govt.

- To act as a watchdog, the institution require effect force such as local police, which is not there.

- Violations by State or the Government are generally not addressed because of lack of independent machinery with NHRC.

To strengthen the institutions protecting Human rights - following need to be implemented

- Alongwith advice, the NHRC should be given power to prosecute
- Independent Human Rights force.
- NHRC Act be amended to include decentralising units at local levels.

9. Equality of seats among states in Rajya Sabha could not be adopted after independence because of the circumstances prevailing at that time. However, there is a need to take a fresh look at this. Evaluate.
स्वतंत्रता पश्चात् राज्यसभा में राज्यों के बीच सीटों की समानता की संकल्पना तत्कालीन परिस्थितियों के कारण नहीं अपनाई जा सकी। हालांकि इस पर नए सिरे से विचार करने की आवश्यकता है। मूल्यांकन करें।

The states, at present enjoy the seats in RS according to their population. Although this was a necessity at independence, it is not so at present.

Since, the task of uniting India and inclusion of princely states in the Union created conditions that bigger states be represented with higher no. of representatives

But with time, the question is not of pacifying the bigger states but of implementing 'equal' federalism.

The federal structure of our country has evolved to such a state that equal representation is necessary

- In US Senate, each state has 2 seats, thus even the small states have equal say. The Indian states need to be considered as 1 unit, rather than on their size.
- Representation on the basis of population is already there in Lok Sabha, so there is no need to repeat it in RS too.
- RS, as a chamber of states, should be able to project a view of all states, not by a majority achieved because of big states only.
- By providing equal representation to states, the apprehensions of smaller states that their needs are ignored can be dispensed with.

- Since, bigger states have more seats in RS, the composition of RS reflect the Political parties of major states like UP, Tamil Nadu, Bihar only. This creates a skewed perception of the representation.

Thus, its high time that states be represented equally following the recommendations of Punchi Commission.

10. For inclusive and sustainable growth, India needs both cooperative as well as competitive federalism. Discuss.

समावेशी और धारणीय विकास के लिए, भारत को सहकारी एवं प्रतिस्पर्धी संघवाद, दोनों की आवश्यकता है। चर्चा करें।

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11. Article 311 of the Constitution has been a matter of much debate. Arguments range from its retention in its present form, or even strengthening it, to its total deletion. Comment.

संविधान का अनुच्छेद 311 बहस का महत्वपूर्ण विषय रहा है। इस विमर्श में इसे वर्तमान रूप में ही बनाए रखने, अधिक सशक्त करने से लेकर इसके विलोपन तक के मुद्दे शामिल हैं टिप्पणी करें।

Art 311 of the Constitution states that the officers of the State can be removed only by an authority equal to or higher than the appointing authority.

In practical context, this has led to

- conflict between states & Centre on All India Service officers.
- Difficulty in removal of corrupt officials since they enjoy this protection.
- Insubordination of ^{Union} officials to the state machinery
- frequent central deputation on conflict with the state govt.

Certain arguments for strengthening it -

- Even with all the apprehensions, the officials do not have a free hand and frequent suspensions are observed.
- Local politicians and state govt interfere with the working of the officials and suspension + transfers are used as tools to threaten the officials.

In this regard, calls are there to strengthen the Art 311 by including fixed tenure of posting, permission for suspension by state govt from the centre govt.

The arguments in favour of retention in present form or deletion fall weak in front of the arbitrary transfers and suspensions.

Rather, Art 311 needs to include provision for better provisions and for harmony between officials and the govt.

12. While Public Interest Litigations have provided access to justice for the poor and the marginalized sections of the society but many vested interests have also misused it. In this context, examine the utility of PILs as a tool of social justice.

यद्यपि जन हित याचिकाओं ने समाज के निर्धन एवं अधिकार विहीन वर्गों को न्याय तक पहुंच प्रदान किया है, लेकिन कुछ निहित स्वार्थों के कारण इसका दुरुपयोग भी हुआ है। इस संदर्भ में, सामाजिक न्याय के साधन के रूप में जन हित याचिकाओं की उपयोगिता का परिक्षण करें।

Public Interest Litigations are a tool invented by the Indian judiciary to discuss and bring forth the issues affecting the public at large, and not to any specific individual / group.

But the use of PILs for personal gain and petty issues has led to undermining its value.

The SC has several times rebuked and fined the petitioners for illogical & unnecessary PILs.

Although facing such issues, the role of PILs cannot be undermined

- PILs provide an effective way for NGOs and civil society to raise concerns regarding crucial social issues.
- PIL is a means by which the issues which do not have sanction of executive or media also come to the public discourse.
- The illiterate and poor people can have access to justice by means of a PIL, which earlier was a cumbersome process.
- In rebuking the 'fake' PILs, the SC has taken a right step because generalisation of this concept will cause the genuine PILs with less space in public domain.

- Additional measures should be taken for PIL filing which protect this tool for genuine cases only, not to settle personal cases.

13. What do you understand by alternate dispute redressal mechanism? Discuss the various tools of ADR. In light of the problems faced by the Indian judiciary enumerate the advantages of Lok Adalats.

वैकल्पिक विवाद निवारण तंत्र से आप क्या समझते हैं? वैकल्पिक विवाद निवारण तंत्र (ए.डी.आर.) के विभिन्न साधनों पर चर्चा करें। भारतीय न्यायपालिका के समक्ष पेश आ रही समस्याओं के आलोक में लोक अदालतों के लाभों का वर्णन करें।

Alternate Dispute Resolution is a tool for settlement ^{of disputes} out of the cumbersome process of courts where resolution of dispute is the main focus rather than the following of legal procedures.

Tools of ADR.

- 1) Arbitration - dispute is resolved by a person / group of persons agreed to by both parties.
- 2) Conciliation - dispute is settled by a third party but the parties may or may not accept it.
- 3) Mediation - dispute is settled by both parties themselves but dialogue is facilitated by the mediator.
- 4) Judicial settlements by Lok Adalats.

Lok Adalats are an effective tool for settlement of those disputes, between two private parties or between state & a party, which include fines or in which the parties agree to a settlement rather than deciding who is right or wrong.

Lok Adalats have a powers of civil court but can also try cases relating to minor criminal offences.

Advantages of Lok Adalats.

- Reduced burden of higher judiciary
Lok Adalats have handled petty offence cases thus only major crimes and constitutional cases are left with higher judiciary.
- Minimum procedural cost

The cost of judicial procedures has become a deterrent to justice.

thus lok adalats help in reducing costs of litigation.

- fast resolution of disputes

lok adalats generally deal with cases in one or two sitting, thus saving the long legal battles.

- Medium of grievance redressal at local levels.

The conflicts at local levels of villages or small towns are addressed in more legal way.

- Quick recovery of fines

fines recovered at the spot, thus add to the state funds.

Therefore, lok adalats have drastically changed the judicial scenarios, at least at the lower level.

14. Bringing political parties under the ambit of RTI will not only usher accountability and transparency in governance but will also be a major step towards electoral reforms. Discuss.

राजनीतिक दलों को सूचना के अधिकार अधिनियम (आर.टी.आई.) के दायरे में लाने से न केवल पारदर्शी एवं उत्तरदायी शासन की शुरुआत होगी बल्कि यह चुनाव संबंधी सुधारों की दिशा में एक बड़ा कदम होगा। चर्चा करें।

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15. A generational shift in railway operations is required. In light of this, discuss the need for an independent tariff and safety regulatory authority of India.

रेलवे के संचालन में आमूलचूल परिवर्तन की आवश्यकता है। इस तथ्य के प्रकाश में, भारत के लिए एक स्वतंत्र प्रशुल्क टैरिफ एवं सुरक्षा नियामक प्राधिकरण की आवश्यकता पर चर्चा करें।

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16. It has been argued that the 'First past the post' system fails to represent the will of the majority and encourages vote-bank politics. In this context, examine whether India should adopt Proportional Representation System to reform our electoral process.

यह तर्क दिया जाता है कि 'फर्स्ट पास्ट द पोस्ट' प्रणाली बहुमत की इच्छा का प्रतिनिधित्व करने के स्थान पर वोट बैंक की राजनीति को प्रोत्साहित करती है। इस संदर्भ में, इस बात का परिक्षण करें कि क्या भारत को अपनी चुनावी प्रक्रिया में सुधार करने हेतु अनुपातिक प्रतिनिधित्व प्रणाली अपनाना चाहिए?

First Past the Post system means that the candidate securing maximum no. of votes out of the candidates in the fray, wins the seat. In most cases, the no. of votes do not exceed 50%, thus questions are raised whether the elected candidate actually represents the majority?

Issues regarding FPTP.

- It fails to represent majority opinion most of the times, thus undermining democracy.
- Since it does not require securing > 50% votes necessarily, the parties indulge in vote banks i.e.

selecting a few dominating caste / class groups and appeasing them. Thus it leads to caste based politics.

- A scenario can emerge that the political party has disproportionate representation to the number of votes polled.

eg. In LS election 2014, the BJP got only a few percentage of votes more than INC, but the difference in seats was huge.

This leads to calls of Proportional Representation system. But the PR system has certain limitation making it ineffective.

- For such a huge electorate, the PR system will be not feasible to execute.
- The PR system will lead to obfuscation, as an elector will not

be able to determine his representative. Presently, people go to the representative of their constituency for grievances, but in PR system, the legislators will be less accountable and less clear on whom they represent.

Thus adopting PR system will lead to defacing the basic tenet of representation of people. Hence, for electoral reforms other measures such as direct democracy measures of recall or referendum ^{should} be adopted.

17. Independence of judiciary and separation of powers, both are part of the basic structure of the constitution. In this context, discuss the recent Supreme Court judgment on the constitutional validity of the National Judicial Appointments Commission.

न्यायपालिका की स्वतंत्रता एवं शक्तियों का विभाजन, दोनों संविधान के मूल ढांचे का हिस्सा है। इस संदर्भ में, हाल ही में सुप्रीम कोर्ट द्वारा राष्ट्रीय न्यायिक नियुक्ति आयोग (एन.जे.ए.सी.) की संवैधानिक वैधता पर दिए गए निर्णय पर चर्चा करें।

Art 50 of the Constitution, states the Directive Principles of State Policy that State have endeavours to keep the Executive & Judiciary separate.

SC has held that independence of judiciary and SoP, both are part of basic structure of constitution, and struck down the NJAC Act which provided to set up a judicial appointments commission in place of the present collegium system.

The major points of contention are -

- At present, the CJ has a great say in appointment of judges but

the NJAC Act will make him only a member of the appointments commission and his viewpoint could be overruled.

- The appointment of 2 eminent persons in the commission can be arbitrary as no grounds^{are} specifically provided. This will be encroachment on the independence of judiciary.

- The NJAC will lead to the executive determining the judges, thus the judges so appointed cannot be considered free from political or executive influence. This will violate the essence of SOP and will not lead to effective checks and balance on executive.

However, striking NSAC as incompetent altogether is not a prudent stand and transparency in the process should be focussed on.

In USA, while appointing a judge of SC, the President has to get the name cleared from Senate and all the candidates' profiles are in public domain. Such types of measures in appointment of judges will be more beneficial to the people of India.

18. AMRUT gives state governments the flexibility in designing schemes and eases central monitoring. Explain. How far can it recast the urban landscape of India?

अमृत (AMRUT) राज्य सरकारों को योजनाओं के ऋरूप निर्धारण के सन्दर्भ में लचीलापन प्रदान करता है तथा केंद्र द्वारा की जाने वाली मॉनीटरिंग को आसान बनाता है। वर्णन करें। भारत के शहरी परिदृश्य को यह किस हद तक पुनर्निर्मित कर सकता है?

AMRUT - Atal Mission for Rejuvenation and Urban Transformation has been the recast version of earlier JNNURM. Although, maintaining the essence of JNNURM, AMRUT has given much flexibility to states in implementation. Some of the provision which will lead to efficient implementation are -

- AMRUT only details the plan, the execution of the project is completely in the hands of state govt.
- The central financing is limited (33-50%), thus all the projects

will be owned by the State Govts making them more interested and more responsible in the projects.

- AMRUT seeks to establish city govt i.e. the local government should be devolved the finances, This direction to states, of devolving power & finances to urban local bodies will lead to better understanding of the requirements of the city.
- AMRUT will not lead to an additional scheme, rather the existing projects under various schemes will be brought under one umbrella, thus leading to total control of state govt.

As far as its viability and possibility of success is considered, AMRUT will lead to redefined urban landscape in the country which will ~~lead~~ create 500 towns & cities as addition to smart cities. Major infrastructure projects and ICT projects will be completed in mission mode, thus changing to the notion of 21st century city.

19. There has been a tendency to resolve specialized cases faster through the means of Tribunals. In light of this, discuss the issue of increasing "tribunalisation" of courts in India.

न्यायाधिकरण जैसे साधनों के माध्यम से विशेष मामलों को तेजी से हल करने की प्रवृत्ति देखी जा रही है। इसके रुन्दर्भ में, भारत में न्यायालयों को न्यायाधिकरणीकृत करने की बढ़ती प्रवृत्ति के मुद्दे पर चर्चा करें।

Tribunals have emerged as quasi judicial bodies most similar to judiciary.

Therefore, the inter-department or inter-organisation disputes are generally resolved in Tribunals rather than courts. Many govt departments

have set up tribunals for grievance redressal or as appellate authorities

eg. Central Administrative Tribunal
Income Tax Appellate Tribunal

The increase in number of tribunals has led to certain benefits

- Speedy justice, as the case is within the department it is resolved quickly.

- Reduction of load on courts

Most of the cases decided by tribunals are not challenged in courts, thus SC is left with less burden.

- Focus on resolution of dispute

Tribunals are not focussed on procedures laid down by Civil Procedure Code or CrPC. They consider the facts and award the compensation.

- Specialists as panelists / members of Tribunals have led to adequate settlement of specialised cases.

However

concerns have been raised on effectiveness of Tribunals as

- Scant regard to established procedure and Indian Evidence Act, which does not act as a guide to Tribunals, thus eroding the essence of judiciary.

- Since tribunals do not consist of all judicial members, even the specialists appointed perform judicial function which is against separation of powers.
- Even after an award of Tribunal, the case is appealed in Supreme Court or High Courts in many instances, thus defeating the purpose i.e. speedy justice.

Therefore, the Govt should implement adequate safeguards in tribunal justice delivery so that judicial sanctity remains intact.

20. While the 73rd and 74th constitutional amendments provided for representation to women in local governance, much work remains to be done to ensure their true participation, given their present socio-economic conditions. Comment.

यद्यपि 73वें और 74वें संविधान संशोधन ने महिलाओं को स्थानीय शासन में प्रतिनिधित्व प्रदान किया है, लेकिन उनकी वर्तमान सामाजिक-आर्थिक स्थिति को देखते हुए, महिलाओं की वास्तविक भागीदारी सुनिश्चित करने के लिए बहुत कुछ किया जाना शेष है। टिप्पणी करें।

The 73rd and 74th Constitutional Amendment Acts provide for at least 33% reservation for women in representing the local bodies such as Gram Sabha, Panchayats or Zila Parishad.

But this provision has only led to the 'change of gender' in representation, not the 'change in state of gender'. The position of women has definitely improved as compared to pre 1990 days, but there is a long way to go.

Major concerns regarding representation -

- Puppet in the hands of males

The women representatives, in most cases act as stamps for the dominating male members of her family.

- lack of education / awareness

Since women have not been ^{a major} part of local governance for long, they generally lack the knowledge of procedures and powers, which is exploited by both the males and the officials.

- The ills like female foeticide, dowry system etc lead to reduced confidence of majority of women in villages, thus they cannot come forward to contest local elections.

All these concerns can be addressed by just making small changes in implementation of the Acts like -

- The district officials should hold meetings with women representatives and encourage them to put forward their concerns.
- People from local institutes such as Anganwadis, Primary Health Centres who are more aware should educate the women about their role.
- The local education setup i.e. the village school can help in reporting any coercion against the woman representative by the village elders.